



**House Judiciary Committee: S. 224 Juvenile Justice**

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**March 25, 2022**

The Vermont Network is deeply appreciative for the work of the Legislature and the Juvenile Justice Stakeholders Group on issues related to juvenile justice. We are committed to the overall purpose and direction of juvenile justice reforms and support S. 224 in this draft. Policy changes related to Raise the Age and Youthful Offender have helped to move our legal responses to criminal behavior among emerging adults towards greater alignment with criminal justice reform efforts and the neurobiology of emerging adults.

Advances in neuroscience have demonstrated that the brain is not fully developed until an individual reaches their twenties, and that the adolescent brain is highly responsive to risk-taking, peer influence and reward systems.<sup>1</sup> We are also deepening our understanding of the impacts of trauma on the lives of youth, and the ways that responses to trauma can manifest as harmful or criminal, behaviors. We believe that it is essential that youth who commit crimes have access to resources and interventions outside of the traditional criminal legal responses and that the goal of these responses ought to be rehabilitation and support.

While Vermont has moved forward important juvenile justice reforms, implementation has revealed that more work remains to ensure that victims' rights are upheld as policy evolves. By raising the age up to 19 and eventually to 22, we have already seen and anticipate further growth in the number of domestic and sexual violence-related cases that will appear in family court. In domestic and sexual violence cases, the victims are often also emerging adults and are in the same critical stages of brain development. They need to be afforded the same care and consideration as the person that has caused them harm.

As we consider making changes to the process to better support offenders, it is essential that we also take a look at the experiences of victims to ensure that the process works for them as well. Once raise the age has been fully implemented to age 22, this process will involve almost all campus sexual assaults as well as many dating and domestic violence cases, sometimes between married individuals. Domestic and sexual violence are intimately personal crimes and victim involvement in these court proceedings is often essential to their healing and safety, as well as to the offender's learning and rehabilitation. In the existing statute and structure, victims have very little opportunity to engage with the process or to even be informed about what is happening in their cases. This is why the changes made here in S. 224 are so critical. S. 224 is a strong bill that would remedy a lot of the inequities victims experience within the juvenile court system while still allowing for strong confidentiality and support for the juvenile.

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<sup>1</sup> Massachusetts General Hospital, Center for Law, Brain & Behavior: <http://clbb.mgh.harvard.edu/>



### Victims Compensation (Sec. 3)

When records are sealed and/or expunged as part of the family court process, we are unintentionally prohibiting victims from accessing the Victims Compensation Fund. The Victims Compensation Fund, run by the Center for Crime Victim Services, allows victims to pay for various expenses related to their traumatic experiences, including therapy. Oftentimes it can be months or even several years before a victim realizes that they need therapy and reaches out for financial support. This is especially true when we consider that the victims in raise the age cases are typically youth themselves. The Center for Crime Victim Services is unable to administer these funds without any official records documenting their status as a victim. The language in section 3 allows the Victims Compensation Program to administer these funds even after the case is expunged.

### Access to Court Proceedings and Notification (sec. 5-12)

Sections 5-12 increase a victim's notification of and access to proceedings for all domestic and sexual violence cases that fall under Raise the Age and Youthful Offender. Currently, victims have very little right to notification regarding raise the age cases. Victims have a right to conditions that pertain directly to them (such as no contact orders). However, they are not privy to other conditions that might help them stay safe, such as general information about whether the individual is receiving intervention in their community or out of state. We are aware of cases of sexual violence where the victim and offender attend the same high school and victims are not notified when an offender is returning to school. These sorts of changes in status are important for safety planning.

We are hearing of several instances in which victims need to use the Civil Relief from Abuse process to gain a measure of safety because they do not have access to see conditions through the raise the age process. This is a duplication of court efforts and could easily be streamlined by increasing the transparency about conditions for victims.

Victims, their attorneys, and victim advocates need to be able to be notified of, and have the ability to attend, all relevant court proceedings regarding their case. Currently, in Raise the Age, victims are allowed to provide a victim impact statement at the disposition hearing and then may be called in to testify at any point in the process as the court deems necessary. When victim attorneys are not privy to the process it is extremely difficult for them to counsel their clients regarding testimony. We are hearing that many victims are declining to testify because of this lack of context about the case and ability to engage in the process.

In the Juvenile Justice stakeholders group this week it was noted that there was a discrepancy in the language here for listed and non-listed crimes which effectively makes the notification broader for non-listed crimes. This was not our intent and we believe that the language in Sec. 11 (5) on page 12 should mirror the language found in Sec. 10 (4) with one exception. We believe that section 10(4) should use the word "release" not "discharge". The victims of listed crimes need to be able to adequately safety plan when the juvenile is in the community.



You have also heard testimony from DCF that they would prefer the notification language in this bill to change back to their current system which is opt-in while the language in this bill is the more inclusive opt-out system that we have in the criminal division. While we can certainly appreciate DCF's concerns regarding their capacity and amount of effort an opt-out notification system will be, this notification is absolutely critical for victims and we support the language in this bill remaining as is. The Center and the Network have both reached out to DCF and let them know that we would gladly support any proposals to increase their capacity to support victims and ease this administrative burden. However, the notifications that we are asking for, such as when an individual flees from a treatment program or moves to a community in which the victim resides, are absolutely critical to a victim's safety planning. This committee recognized the importance of this notification when offenders are in the custody of the Dept of Mental Health last year with S.3 and we think it is critical that these same rights be afforded to victims who are in the juvenile justice system.

### Confidentiality

We recognize and support the need for strong confidentiality in these juvenile cases and during the court proceedings. This confidentiality is often a benefit for the victims as well as the offender. We fully support the state and DCF upholding strict confidentiality in these cases. However, confidentiality should not be a burden that victims are asked to bear. We hear from victim's advocates across the state that victims involved in raise the age or youthful offender cases are told by prosecutors that they cannot talk to anyone about their experiences or name their offender and that, if they do so, they can be charged with contempt of court.

Talking with trusted family members, friends and therapists is an essential part of the healing process. Our youth victims should not fear criminal repercussions because they are engaging in a natural and normal part of healing from their traumatic experiences. In adult criminal cases, even when the offender is tried and found not guilty, there is nothing that prevents that victim from talking about their experiences. We need to afford the same rights and considerations to our victims within the family court process.

Finding the right language to get at this concept proved tricky for the Juvenile Justice Stakeholder's group and the language in sec. 7(c) on page 6 and again in the Sec. 12 (e) for the Youthful Offender statutes is the result of many hours of consideration and compromise by this group. We believe this language strikes the needed balance between the needed confidentiality and the rights of a victim.

We thank the committee for your consideration, and for all of your efforts to advance policies that increase safety for victims of crime.